

VARIANCE FOR INTERNATIONAL PAPER (9 VAC 5 CHAPTER 230)

9 VAC 5 CHAPTER 230.
VARIANCE FOR INTERNATIONAL PAPER FRANKLIN PAPER MILL.

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9 VAC 5-230-10. Applicability and designation of affected facility.

_____ The affected facility to which the provisions of this chapter apply is the International Paper Franklin Paper Mill.

9 VAC 5-230-20. Definitions.

_____ A. For the purpose of applying this chapter in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meaning given them in subsection C of this section.

_____ B. As used in this chapter, all terms not defined herein shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10), Article 6 (9 VAC 5-80-1100 et seq.), Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of Part II of 9 VAC 5-80, or

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commonly ascribed to them by recognized authorities, in that order of priority.

C. Terms Defined.

"Control technology application" means a document which includes such information as may be required by the department to determine the effect of the proposed physical or operational change on the ambient air quality and to determine compliance with the emission standards which are applicable. The information required shall include, but is not limited to, the following:

1. Company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager or contact or both.

2. A description of the source's processes and products (by Standard Industrial Classification Code).

3. All emissions of regulated air pollutants.

a. An application shall describe all emissions of regulated air pollutants emitted from any emissions unit or group of emissions units to be covered by the control technology approval.

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b. Emissions shall be calculated as required in a manner acceptable to the department.

c. Fugitive emissions shall be included in the application to the extent quantifiable.

4. Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.

5. Information needed to determine or regulate emissions as follows: fuels, fuel use, raw materials, production rates, loading rates, and operating schedules.

6. Identification and description of air pollution control equipment and compliance monitoring devices or activities.

7. Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants at the source.

8. Calculations on which the information in subdivisions 3 through 7 of this subsection are based. Any calculations shall include sufficient detail to allow

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assessment of the validity of such calculations.

9. Any additional information or documentation that the department deems necessary to review and analyze the air pollution aspects of the physical or operational change, including the submission of measured air quality data at the proposed site prior to construction of the physical or operational change. Such measurements shall be accomplished using procedures acceptable to the department.

"Department" means the Department of Environmental Quality, an agency of the Commonwealth described in § 10.1-1183 of the Code of Virginia.

"Emissions caps" means the site-wide limitations on the rate of emissions of air pollutants established and identified as emissions caps in 9 VAC 5-230-40 A. This limitation on the annual emissions of a pollutant, expressed in tons per year, is derived from emissions factors and quantification methods believed to be accurate at the time of adoption of this chapter. Emissions attributed to the emissions caps shall include fugitive emissions to the extent quantifiable, and emissions resulting from startup, shutdown and malfunction conditions.

"EPA" means the United States Environmental Protection Agency.

"International Paper" refers to International Paper Company, Inc., a New

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York corporation authorized to conduct business in Virginia and the owner and operator of a plant (the Franklin Paper Mill), located at 34040 Union Camp Drive, in Franklin, Virginia.

"Order" means the order granting this variance.

"FESOP" means the federally enforceable state operating permit issued under the authority of the Order, which meets the requirements of Article 5 (9 VAC 5-80-800 et seq.) of Part II of 9 VAC 5 Chapter 80 to International Paper Company, Inc., Franklin Paper Mill.

"Major new source review (major NSR) program" means a program for the preconstruction review and permitting of new major stationary sources or major modifications (physical changes or changes in the method of operation) which are subject to review in accordance with Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of Part II of 9 VAC 5 Chapter 80.

"Minor new source review (minor NSR) program" means a program for the preconstruction review and permitting of new stationary sources or modifications (physical changes or changes in the method of operation) which are subject to review in accordance with Article 6 (9 VAC 5-80-1100 et seq.) of Part II of 9 VAC 5 Chapter 80 and which do not qualify as new major stationary sources or major modifications under the major NSR program.

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"Physical or operational change" means any physical or operational change at the affected facility that involves the addition of a new emissions unit.

"SAPCB Regulations" means 9 VAC 5 Chapters 10 through 80.

"Site" and "Facility" and "Franklin Paper Mill" mean the contiguous property at 34040 Union Camp Drive, Franklin, Virginia, under common control by International Paper Company, Inc., and its successors in ownership.

"VAC" or "9 VAC" means Title 9 of the Virginia Administrative Code. This title comprises the environmental regulations for the Commonwealth of Virginia, including the regulations of the board.

"Variance" means this chapter.

9 VAC 5-230-30. Authority to operate under this chapter and FESOP.

A. International Paper may operate under the provisions of this chapter and the FESOP:

1. Provided that International Paper has not administratively appealed the

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FESOP or filed a notice of appeal for judicial review during the period within which such appeals must be filed, and

2. International Paper has (i) provided written notification to the department that it accepts and will operate under the provisions of this chapter and the FESOP and (ii) received written confirmation of receipt by the department.

B. In no case may International Paper operate under the provisions of this chapter and the FESOP prior to the initial effective date of this chapter.

9 VAC 5-230-40. Site-wide emissions caps.

A. On or after the date that International Paper is granted authority to operate under the provisions of this chapter and the FESOP, no owner or other person shall cause or permit to be discharged into the atmosphere from the affected facility any emissions in excess of the site-wide emissions caps set forth in subdivisions 1 through 10 of this subsection.

1. For particulate matter (PM), the emissions cap shall be 1166 tpy.

2. For particulate matter (PM₁₀), the emissions cap shall be 804 tpy.

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3. For sulfur dioxide (SO₂), the emissions cap shall be 7900 tpy.

4. For oxides of nitrogen (NO_x), the emissions cap shall be 3000 tpy.

5. For carbon monoxide (CO), the emissions cap shall be 2574 tpy.

6. For volatile organic compounds (VOCs), the emissions cap shall be 694 tpy.

7. For total reduced sulfur (TRS), the emissions cap shall be 223 tpy.

8. For lead, the emissions cap shall be 0.135 tpy.

9. For sulfuric acid mist (H₂SO₄), the emissions cap shall be 100 tpy.

10. For fluorides, the emissions cap shall be 20.4 tpy.

B. Compliance with the emission caps set forth in subsection A of this section shall be based on a 12 month rolling sum.

C. If International Paper becomes subject to future regulations, International Paper may not use the emissions credits obtained from the associated emissions reductions to

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comply with the emissions caps.

9 VAC 5-230-50. New Source Review Program and registration requirements.

A. This section applies in lieu of certain regulatory requirements for the pollutants for which an emissions cap is established. This section is not intended to provide an alternate method of compliance for any future regulatory requirements, including those that are designed to address particulate matter with aerodynamic diameter less than or equal to a nominal 2.5 microns (PM_{2.5}) or ozone or both.

B. For the pollutants for which an emissions cap is established, compliance with this chapter and the FESOP shall constitute compliance with the following provisions of the SAPCB regulations:

1. 9 VAC 5 Chapter 50, Part II, Article 4 (9 VAC 5-50-240 et seq.).

2. 9 VAC 5 Chapter 80, Part II, Article 6 (9 VAC 5-80-1100 et seq.).

3. 9 VAC 5 Chapter 80, Part II, Article 8 (9 VAC 5-80-1700 et seq.).

4. 9 VAC 5 Chapter 80, Part II, Article 9 (9 VAC 5-80-2000 et seq.).

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C. For any modifications that would otherwise be subject to the minor NSR program and result in an increase in hazardous air pollutant emissions, International Paper will calculate and maintain records demonstrating that the emissions will not exceed the significant ambient air concentration for that pollutant as defined in Articles 4 (9 VAC 5-60-200 et seq.) and 5 (9 VAC 5-60-300 et seq.) of 9 VAC 5 Chapter 60.

D. For any physical or operational change that would otherwise be subject to the major NSR program, International Paper shall submit a control technology application to and shall obtain approval thereof from the department that the control technology to be installed meets the applicable requirements of Article 4 (9 VAC 5-50-240 et seq.) of Part II of 9 VAC 5 Chapter 50. International Paper shall install emission controls that are consistent with the approval. International Paper may begin and complete actual construction of the physical or operational change prior to receiving approval from the department if each of the following conditions is met:

1. International Paper has submitted an approvable control technology application for the physical or operational change with a notice of intent to begin actual construction of the physical or operational change.

2. International Paper has submitted a certification that it (i) freely assumes all financial and other risks associated with beginning actual construction of the physical or operational change prior to receiving the control technology approval and (ii) acknowledges

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that the department, in evaluating the application, may not consider any consequences to the applicant of beginning actual construction prior to receiving the control technology approval.

3. The department has not, within 30 days of receipt of the application, issued a written notice to International Paper, based on concerns about air quality impacts or emissions control technology, requiring the termination of construction as soon as practicable but no later than five business days after receipt of the notice.

4. International Paper constructs the physical or operational change as described in the control technology application.

5. International Paper does not commence operation of the physical or operational change until the control technology approval has been granted.

E. If the department has not, within 60 days of receipt of the control technology application submitted in accordance with subsection D of this section, issued a written notice to International Paper either approving or objecting to the construction of the physical or operational change, the control technology application may be deemed granted.

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E. All new source review permit program permits that have been issued to the affected facility prior to the effective date of this chapter are rescinded. All terms and conditions not related to the unit-specific emission limitations that were established to limit the potential to emit for the affected units in order to avoid otherwise applicable requirements are included in the FESOP. The permits that are rescinded include, but are not limited to, the following:

1. Power boilers permit dated 8/3/2003 and amended on 7/6/2004

2. Digesters, Evaporators, Bleach Plant and Recovery Boiler permit dated 5/11/2004

3. Lime Kiln permit dated 3/16/2004

4. Paper Machine permit dated 7/5/2001

5. Starch Silo permit dated 5/11/1993

9 VAC 5-230-60. Other regulatory requirements.

A. Compliance with other regulations shall be as follows:

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1. International Paper shall comply with the requirements of 40 CFR Part 63 except where alternative requirements have been established as provided in 40 CFR 63.99 (a) (46) (iii) (69 FR 19943, April 15, 2004), in which case International Paper shall comply with the permit terms and conditions setting forth the alternative requirements.

2. International Paper shall comply with all other regulations of the board except as provided in this chapter.

3. Compliance with this chapter and the terms and conditions of the FESOP shall not relieve International Paper of its obligation to comply with applicable local, state or federal laws and regulations not addressed in this chapter.

B. International Paper may not engage in any emissions trading beyond that allowed under a program approved by the board. No emissions credits obtained from emissions reductions external to the affected facility may be used to comply with the emissions caps.

9 VAC 5-230-70. Federal operating permits.

A. International Paper shall be subject to the provisions of 9 VAC 5 Chapter 80, Part II, Article 1 (9 VAC 5-80-50 et seq.) except that the FESOP and documentation submitted in obtaining the FESOP are deemed sufficient for the permit application requirements

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pertaining to the applicable requirements in the FESOP. For applicable requirements outside of the FESOP, International Paper shall submit information on standard forms provided by the department, or in accordance with instructions accompanying those forms, or as otherwise acceptable to the department.

B. International Paper shall be subject to the provisions of 9 VAC 5 Chapter 80, Part II, Article 2 (9 VAC 5-80-310 et seq.) and shall provide the department with emission inventory update information sufficient to allow the department to assess permit program fees.

9 VAC 5-230-80. FESOP issuance and amendments.

A. The department may issue a FESOP under the provisions of Article 5 (9 VAC 5-80-800 et seq.) of Part II of 9 VAC 5 Chapter 80 to implement the provisions of this chapter. The FESOP shall include terms and conditions concerning monitoring, recordkeeping and reporting as may be necessary to ensure compliance with the emissions caps and may include such other terms and conditions as the department may determine are necessary to implement the provisions of this chapter.

B. The department shall issue the initial FESOP in accordance with the procedures set forth in the Order. The department shall amend the FESOP in accordance with the procedures set forth in subsections C through E of this section. The department shall

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specify within the FESOP the conditions under which the FESOP may be amended.

C. The department shall provide for public participation prior to issuing the FESOP.

At a minimum, the department shall:

1. Make available for public inspection in at least one location in the area of the site the information submitted by International Paper, the department's analysis of the effect on air quality including the preliminary determination, and a copy or summary of any other materials considered in making the preliminary determination;

2. Notify the public, by advertisement in a newspaper of general circulation in the area of the site of the application, of the location of the information available for public inspection as specified in subdivision 1 of this subsection, and of the opportunity for comment at a public hearing as well as written public comment;

3. Provide a 30-day period for submittal of public comment;

4. Send a copy of the notice of public comment to the following: the EPA Administrator, through the appropriate Regional Office; any affected other state or local air pollution control agency; the chief executives of the city and county where the site is located; any state, Federal Land Manager, or other governing body whose lands may be affected by emissions from the site; and

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5. Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the site, the control technology required, and other appropriate considerations.

D. Upon request of the department, the public notice required under subdivision C 2 of this section shall be placed by International Paper in at least one newspaper of general circulation in the area of the site of the application. The notice shall be approved by the department and shall include information as the department deems appropriate.

E. For any change that does not meet the criteria for an administrative permit amendment established in subdivision F 1 of this section, the department shall provide an opportunity for public participation consistent with the provisions of subsection C of this section prior to processing the permit amendment.

F. The following provisions govern administrative permit amendments:

1. An administrative permit amendment is a permit revision that:

a. Corrects typographical errors;

b. Identifies a change in the name, address, or phone number of any

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person identified in the FESOP, or provides a similar minor administrative change at the site:

_____ c. Requires more frequent monitoring, recordkeeping, or reporting by the permittee:

_____ d. Allows for a change in ownership or operational control of a source where the department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the department.

_____ e. Changes the monitoring, recordkeeping, or reporting requirements for equipment that has been shutdown or is no longer in service; or

_____ f. Any other change that is stipulated in the FESOP as qualifying as an administrative permit amendment, provided that the permit condition which includes such stipulation has already undergone public participation in accordance with subsection C of this section.

_____ 2. The department may make an administrative permit amendment consistent with the following procedures:

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a. The department shall take final action on any request for an administrative permit amendment within 60 days from receipt of the request, and may incorporate such changes without providing notice to the public, provided that the department designates any such permit revisions as having been made pursuant to this subdivision.

b. The department shall submit a copy of the revised permit to the EPA Administrator.

c. International Paper may implement the changes addressed in the request for an administrative permit amendment immediately upon submittal of the request to the department.

9 VAC 5-230-90. Transfer of ownership.

A. The terms of this chapter and the FESOP are transferable to a new owner upon a change of ownership of the site in accordance with provisions specified by the FESOP.

B. In the case of a transfer of ownership of the site, the new owner shall comply with this chapter and the FESOP. The new owner shall notify the department of the change in ownership within 30 days of the transfer and shall request an administrative amendment to

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the FESOP as provided in 9 VAC 5-230-80 F.

C. In the case of a name change of the site, the owner shall comply with this chapter and the FESOP. The owner shall notify the department of the change in source name within 30 days of the name change and shall request an administrative amendment to the FESOP as provided in 9 VAC 5-230-80 F.

9 VAC 5-230-100. Applicability of future regulation amendments.

Subsequent amendments to the SAPCB regulations cited in 9 VAC 5-230-50 to which this chapter provides relief shall not apply to the Franklin Paper Mill unless and until the board amends this chapter to specifically address the applicability of the regulatory amendments to the facility.

9 VAC 5-230-110. Termination of authority to operate under this chapter and FESOP.

A. Authority to operate under this chapter and the FESOP may be terminated as provided below upon written notice for any of the following reasons:

1. If the department determines that continuation of the permit is an imminent and substantial endangerment to the public health or welfare, or the environment.

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2. If International Paper knowingly falsifies emissions data.

3. If any of the emissions caps are exceeded.

4. For any other reasons not specified here for which the department has legal authority to terminate the authority to operate under this chapter and the FESOP.

B. Notifications of termination will be provided as follows:

1. If the department finds cause to terminate the authority to operate under this chapter or the FESOP, the department will submit notification to International Paper in writing.

2. Within 30 days of receiving this notification International Paper may take corrective action to remedy the cause of the termination. If this remedy is deemed acceptable by the department, the action to terminate the authority to operate under this chapter and the FESOP shall be withdrawn. Otherwise the authority to operate under this chapter and the FESOP shall be terminated.

3. If the authority to operate under this chapter and the FESOP is terminated for any reason, International Paper shall submit an appropriate application for applicable new source review program permits and a new application for a federal operating permit.

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During the interim period, International Paper shall comply with the requirements of this chapter, the FESOP and the current federal operating permit until the new permit is issued.

9 VAC 5-230-120. Review and confirmation of this chapter by board.

_____ A. Within four years of the effective date of this chapter, the department shall perform an analysis of this chapter and provide the board with a report on the results. The analysis shall include any recommendations for amendment to or repeal of the this chapter based on (i) the needs of the Commonwealth's overall air quality management strategy; (ii) current state and federal statutory and regulatory requirements; (iii) an assessment of the effectiveness of this chapter; (iv) a reevaluation of the appropriateness of the emissions caps, including the need for increasing or decreasing the emission caps; and (v) any other factors the department may determine are necessary to include for consideration in review of this chapter. The department shall also include a recommendation for reapportionment of emissions in event of the repeal of this chapter.

_____ B. Upon review of the department's analysis, the board shall confirm the need to (i) continue this chapter without amendment, (ii) repeal of this chapter, or (iii) amend this chapter. If the board's decision is to repeal or amend this chapter, the board shall authorize the department to initiate the applicable regulatory process to carry out the decision of the board.

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C. The authority of International Paper to operate under the provisions of this chapter and the FESOP shall be terminated upon effective date of the repeal of this chapter.

D. For purposes of applying subsequent amendments to, or the repeal of, the provisions of this chapter, the effective date of any subsequent amendments adopted by the board shall be the date 30 days after the date on which a notice is published in the Virginia Register acknowledging that the administrator has approved the amendments adopted by the board following the requirements of 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).